

International Association of Sheet Metal, Air, Rail and Transportation Workers

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Thomas E. Fisher
International Representative

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Hon. Arthur J. Amchan
Deputy Chief Administrative Law Judge
Division of Judges
1015 Half Street SE
Washington DC 20570-0001

POST HEARING STATEMENT: CASE 12-RC-221465

Your Honor Amchan,

On March 8, 2017 SMART Union won the rights to act as Bargaining Representative of the Hourly Employees at Union Tank Car Company, Valdosta Georgia Repair Shop (UTLX). The Certified results of this election were 81 yes votes for SMART Union and 48 no votes for UTLX. SMART Union and UTLX began collective bargaining in April 2017 and engaged in approximately one bargaining session per month through January 2018. On March 9, 2018, UTLX withdrew recognition of SMART Union to represent the workers at UTLX, claiming that the majority of the UTLX hourly employees no longer wished to be represented by SMART Union.

During the bargaining year (March 8, 2017 - March 9, 2018) the Company committed unfair labor practices that had a chilling effect on the Union's ability to represent the best interest of the employee's at UTLX. Through these actions and violations of the National Labor Relation Act it made the task of maintaining support for the Union impossible. With these ULP's the employees were denied their protected rights under the National Labor Relations Act.

On June 4, 2018, SMART Union petitioned the NLRB Region 12 for a second Recognition Election. The NLRB Region 12 conducted a second RC election at UTLX on June 22, 2018. The results of this election were 55 no votes in favor of the Company and 54 yes votes in favor of SMART Union. There was one void ballot.

On June 25, 2018 SMART Union filed timely Objections to the Election. The Objections included past ULP's during the March 8, 2017 - March 9, 2018 bargaining period and an additional ULP committed during the critical period of the second RC election. Based on the Objections filed by SMART Union, Regional Director Cohen granted a Hearing date to discover whether the Company had indeed violated the rights of the UTLX employees regarding a guaranteed free and fair election under the National Labor Relations Act.

On October 11, 2018 Union Tank Car Company, SMART Union, and NLRB Region 12 entered into a Settlement Agreement on three of the ULP's that occurred during the first bargaining period [Cases 12-CA-209024, 12-CA-214382, and 12-CA-216231]. **These settled Cases should be considered in the unlawful conduct of the Company during the first bargaining period to erode support for the Union by making it increasingly difficult to represent the hourly employees at UTLX and have a successful outcome on the second RC Election.**

On November 14, 2018, a Hearing was conducted in the four remaining Cases 12-CA-220822, 12-CA-210779, 12-CA-219374, 12-CA-222661. The outcome of these Cases is pending.

SMART Union's position is simple: If his Honor rules that the Company violated the National Labor Relations act in one or any of the Cases referenced above we ask that the RC Election that was conducted on June 22, 2018 be set aside and a new Election be ordered. We ask this because given the closeness of the results of the Election only one vote changed in the opposite direction would have rendered a win for the Union.

Given the conduct of the Company during the previous bargaining period of the first election where NLRB Region 12 issued seven Complaints on ULP's that were filed by SMART Union, and a Compliant issued for the Conduct during the second elections critical period by the Company's main Supervisor, Jody James, by telling hourly employees that they were violating Federal Law by reading Union literature prior to the vote and moreover confiscating the Union's literature while hourly employees were reading and considering it very well could have swayed one or more votes.

Conversely, if his Honor rules that the Company through its agents did not violate the National Labor Relations Act through its conduct during the first Bargaining Period or during the critical period of the second election SMART Union concedes that we lost the election by one vote.

Respectfully,

Thomas E. Fisher

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International Representative, SMART Union